

1 BILAL A. ESSAYLI  
2 United States Attorney  
3 CHRISTINA T. SHAY  
4 Assistant United States Attorney  
5 Chief, Criminal Division  
6 IAN V. YANNIELLO (Cal. Bar No. 265481)  
7 GREGORY W. STAPLES (Cal. Bar No. 155505)  
8 DANIEL H. WEINER (Cal. Bar No. 329025)  
9 Assistant United States Attorneys  
10 1400/1500 United States Courthouse  
11 312 North Spring Street  
12 Los Angeles, California 90012  
13 Telephone: (213) 894-3667/3535/0813  
14 Facsimile: (213) 894-0142  
15 E-mail: ian.yanniello@usdoj.gov  
16 gregory.staples@usdoj.gov  
17 daniel.weiner@usdoj.gov

18 Attorneys for Plaintiff  
19 UNITED STATES OF AMERICA

20 UNITED STATES DISTRICT COURT

21 FOR THE CENTRAL DISTRICT OF CALIFORNIA

22 UNITED STATES OF AMERICA,

23 No. CR 24-621 (B)-MWF-6

24 Plaintiff,

25 GOVERNMENT'S OPPOSITION TO  
DEFENDANT BANKS' MOTION TO DISMISS  
INDICTMENT

v.

26 DURK BANKS,  
27 aka "Lil Durk,"  
28 aka "Mustafa Abdul Malak,"  
aka "Blood,"

29 Defendant.

30  
31 Plaintiff United States of America, by and through its counsel  
32 of record, the United States Attorney for the Central District of  
33 California and Assistant United States Attorneys Ian V. Yanniello,  
34 Gregory W. Staples, and Daniel H. Weiner, hereby files its opposition  
35 to defendant's motion to dismiss the First Superseding Indictment.

36 //

37 //

38

1 This filing is based upon the attached memorandum of points and  
2 authorities, the files and records in this case, and such further  
3 evidence and argument as the Court may permit.

4 Dated: May 19, 2025 Respectfully submitted,

BILAL A. ESSAYLI  
United States Attorney

CHRISTINA T. SHAY  
Assistant United States Attorney  
Chief, Criminal Division

/s/  
IAN V. YANNIELLO  
GREGORY W. STAPLES  
DANIEL H. WEINER  
Assistant United States Attorneys

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

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1                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2                   **I. INTRODUCTION**

3                   Defendant is charged with murder-for-hire, stalking resulting in  
4 death, and other crimes arising from a premeditated, execution-style  
5 murder that occurred on a busy streetcorner in Los Angeles. Among  
6 other things, the indictment charges that defendant directed and  
7 financed six hitmen to travel across the country to hunt and kill his  
8 rival, T.B. Once the co-conspirators arrived in Los Angeles, the  
9 hitmen used two vehicles to stalk T.B. for hours before ambushing  
10 T.B.'s vehicle at a gas station in broad daylight, killing S.R.

11                  On April 18, 2025, defendant filed a motion seeking to dismiss  
12 the First Superseding Indictment ("FSI"), taking issue with an  
13 introductory allegation that alleged defendant commercialized S.R.'s  
14 murder through certain violent rap lyrics about greenlighting a  
15 murder. (Dkt. 135 at 1-3; 10 at n.1.) As set forth below,  
16 defendant's claim that his music prompted his indictment here is  
17 categorically false, as evidenced by the return of the Second  
18 Superseding Indictment ("SSI") --- which removed the disputed  
19 introductory allegation and contains no reference to defendant's  
20 violent lyrics.

21                  The grand jury's return of the SSI makes it clear: defendant is  
22 not on trial for his lyrics or his music; he is on trial because he  
23 directed, orchestrated, and financed the brazen murder plot at issue  
24 in this case. Accordingly, defendant's motion should be denied  
25 because it is moot following the SSI. But even if mootness does not  
26 apply (it does), the motion fails to cite any legitimate basis to  
27 dismiss the indictment or unseal grand jury transcripts ---  
28 particularly in this murder case where witnesses and their family

1 members have already been threatened.<sup>1</sup> Indeed, the compelling need  
2 to continue protecting witnesses alone justifies denying defendant's  
3 meritless request to unseal the sensitive proceedings before the  
4 grand jury.

5 **II. BACKGROUND**

6 **A. Defendant's Control and Leadership of OTF**

7 Defendant is the leader of a Chicago-based organization called  
8 "Only the Family," or OTF. (Dkt. 147 [SSI]<sup>2</sup> at Introductory  
9 Allegation ¶ 1.) The SSI alleges that in addition to producing hip  
10 hop music, OTF is comprised of individuals who engaged in violence,  
11 including murder and assault, at defendant's direction. (Id.) In  
12 furtherance of his control of OTF and to exact revenge on his rivals,  
13 defendant is alleged to have placed "bounties on individuals that he  
14 and other OTF members wanted to kill, including T.B." (Id. at Count  
15 One, ¶ B.1; see also Dkt. 105, Ex. 2 [Under Seal] at 12-13  
16 (describing bounties).)

17 In addition to directing violence against his rivals, defendant  
18 and OTF members are also alleged to have engaged in witness  
19 intimidation. (See Dkt. 105, Ex. 2 [Under Seal] at 18-19). For

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20  
21 <sup>1</sup> In connection with defendant's detention hearing, the  
22 government submitted evidence related to certain threats to witnesses  
23 in this case. (See Dkt. 105 [Government's December 2024 Brief in  
24 Support of Defendant's Detention], Ex. 2 [Under Seal] at 18-19.) On  
25 May 14, 2025, defendant filed an appeal of Judge Donahue's detention  
order to this Court, which will be heard on the same date as  
defendant's motion to dismiss (June 2, 2025). The government will  
submit its opposition to defendant's appeal by May 27, 2025, which  
will incorporate Ex. 2 from Dkt. 105.

26 <sup>2</sup> Unless otherwise noted, the factual allegations are based on  
the SSI. As discussed below, the SSI is materially similar to the  
FSI except: (1) the SSI contains an additional charge against all  
defendants, namely, stalking resulting in death, in violation of 18  
U.S.C. §§ 2261A(2)(A), (B), 2261(b)(1); and (2) the government  
removed the disputed introductory allegation that referenced  
defendant's rap lyrics.

1 example, evidence collected in this case shows defendant allegedly  
2 placed a bounty to solicit the murder of a family member of a  
3 witness, and that another OTF member called the family member of a  
4 witness in an alleged effort to intimidate the witness. (See id.)

5 **B. Defendant's Deadly Rivalry with T.B.**

6 As alleged in the SSI, in November 2020, D.B., a high-ranking  
7 OTF member and close friend of defendant, was murdered following a  
8 physical altercation with T.B. at a nightclub in Atlanta, Georgia.  
9 (SSI at Introductory Allegation ¶ 3.) After the murder, defendant  
10 made clear, in coded language, that he would pay a bounty to anyone  
11 who took part in killing T.B. for his role in D.B.'s murder. (Id.)

12 On August 18, 2022, defendant and his co-conspirators learned  
13 that T.B. was in Los Angeles. (Id. at Count One, Overt Act 2.) In  
14 response, defendant allegedly orchestrated and financed his  
15 co-conspirators' travel to Los Angeles to kill T.B. (Id. at Overt  
16 Acts 3-7). Indeed, around the time that a Chicago-based  
17 co-conspirator booked flights for five of the hitmen to travel from  
18 Chicago to California for the murder, defendant attempted to conceal  
19 his involvement by telling the co-conspirator, "Don't book no flights  
20 under no names involved wit me." (Id. at Overt Act 6.) As those  
21 five co-conspirators traveled to Los Angeles, defendant and another  
22 co-conspirator traveled on a private jet to the Los Angeles area.  
23 (Id. at Overt Act 3.)

24 After arriving in Los Angeles, defendant's co-conspirators used  
25 two cars to track, stalk, and kill T.B., as T.B. drove around Los  
26 Angeles with his entourage, including S.R. (Id. at Overt Acts 15-  
27 22). After hours of stalking T.B. and his companions, three of  
28 defendant's co-conspirators cornered T.B. at a crowded gas station on

1 the afternoon of August 19. (*Id.* at Overt Act 23). There, the  
2 co-conspirators ambushed T.B.'s vehicle and fired multiple rounds  
3 towards T.B.'s car, striking and killing S.R. (*Id.*) Later that  
4 afternoon, five of defendant's co-conspirators flew back to Chicago.  
5 (*Id.* at Overt Act 27.)

6 **C. The Indictment and Defendant's Attempt to Flee the Country**

7 On October 17, 2024, the grand jury returned an indictment  
8 charging five of defendant's co-conspirators with crimes arising from  
9 the murder, including murder-for-hire and conspiracy to commit  
10 murder-for-hire resulting in death, in violation of 18 U.S.C.  
11 § 1958(a). (See Dkt. 1.) Although defendant was not yet named or  
12 charged in the original indictment, he was referenced throughout the  
13 indictment as Co-Conspirator 1. Specifically, the original  
14 indictment alleged that: (i) defendant was a member or associate of  
15 OTF (*id.* at Introductory Allegation ¶ 1); (ii) defendant placed a  
16 bounty on T.B. following D.B.'s murder (*id.* at ¶ 2; see also *id.* at  
17 Count One, Overt Act One); and (iii) defendant "would place bounties  
18 on individuals that [he] and other OTF members wanted to kill" (*id.*  
19 at Count One, ¶ B.1).

20 In the early hours of October 24, 2024, federal and local law  
21 enforcement executed multiple search warrants at locations associated  
22 with members of OTF in the Chicago area and arrested the five charged  
23 co-conspirators. (See Criminal Complaint<sup>3</sup> at 4.)

24 Soon after law enforcement executed the warrants, the FBI  
25 learned that defendant had been booked on three international  
26

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27       <sup>3</sup> The Criminal Complaint charging defendant Banks was filed in  
28 Case No. 2:24-MJ-065, which has since been merged into the criminal  
case.

1 flights, including at least one to a non-extradition country.  
2 Defendant skipped the first two flights, and was arrested when he  
3 showed up to board a private jet scheduled to leave the United States  
4 a short time later. (Id. at 9-10.)

5 **D. The First Superseding Indictment**

6 On November 7, 2024, the grand jury returned the FSI against  
7 defendant and his co-conspirators. (Dkt. 27.) The FSI identified  
8 defendant as Co-Conspirator 1 and alleged that he formed and was the  
9 leader of OTF --- a group of "individuals who engaged in violence,  
10 including murder and assault, at the direction of defendant BANKS and  
11 to maintain their status in OTF." (Id. at Introductory Allegations,  
12 ¶ 1.)

13 In addition to the allegations set forth in the original  
14 indictment, the FSI also specified that defendant orchestrated the  
15 murder plot. Among other things, the grand jury alleged that: at  
16 defendant's direction, his co-conspirators traveled from Chicago to  
17 Los Angeles to murder T.B. (id. at ¶ 4; Count One, ¶ B.2); at  
18 defendant's direction, his co-conspirators used two cars to track,  
19 stalk, and attempt to kill T.B. (id. at ¶ 5); and at defendant's  
20 direction, defendant Grant obtained the cars, ski masks, and firearms  
21 that the killers used to stalk and attempt to kill T.B. (id. at Count  
22 One, ¶ B.3.)

23 The FSI also included an introductory allegation that defendant  
24 commercialized his violence through rap lyrics about greenlighting a  
25 murder. (Id. at Introductory Allegations, ¶ 6.) That allegation  
26 stated the following:

27 Following the attempted murder of T.B. and the murder of S.R.,  
28 defendant BANKS sought to commercialize S.R.'s death by rapping  
about his revenge on T.B. with music that explicitly references

1                   audio from a news clip taken shortly after S.R.'s murder where  
2                   T.B. screamed "no, no!" after seeing S.R.'s dead body:  
3

4                   Told me they got an addy (go, go)  
5                   Got location (go, go)  
6                   Green light (go, go, go, go, go)  
7                   Look on the news and see your son,  
8                   You screamin', "No, no" (pussy)

9

10                  **E. The Government Obtained the Second Superseding Indictment  
11                  After Defendant Attempted to Promote a False Narrative that  
12                  He Was Indicted and Detained Because of His Music**

13                  On April 18, 2025, defendant filed his motion to dismiss the  
14 FSI, claiming that the rap lyrics at issue were authored before  
15 S.R.'s murder and thus he alleges he could not have been rapping  
16 about greenlighting *this murder*. (Dkt. 135.) Shortly after filing  
17 the motion, defendant and others attempted to promote a false  
18 narrative that defendant had been indicted because of his music ---  
19 not because he allegedly spearheaded the violent murder plot at issue  
20 here.<sup>4</sup>

21                  As a result, the government removed the disputed introductory  
22 allegation and obtained the SSI on May 1, 2025. However, just like  
23 every iteration of the indictment before it, the SSI alleges that  
24 defendant caused, directed, and orchestrated the execution-style  
25 murder of S.R. on a busy street corner in Los Angeles.<sup>5</sup> (See, e.g.,  
26 id. at Introductory Allegations, ¶¶ 1-5; Count One, ¶¶ B.1-3 and  
27 Overt Acts 1-4, 6.)

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28                  <sup>4</sup> For example, defendant's public Instagram page (@lildurk) posted on April 29, 2025 that "the government presented false evidence to a grand jury to indict him . . . [t]hat isn't justice . . . We refuse to stay silent as Black artists continue to be criminalized for their creativity." See @lildurk, available at <https://www.instagram.com/reel/DJCr4YEzTrA/>.

5 The SSI also added an additional charge of stalking resulting in death, in violation of 18 U.S.C. §§ 2261A(2)(A), (B), 2261(b)(1), against all defendants.

1       **III. DEFENDANT'S MOTION TO DISMISS IS MOOT AND MERITLESS**

2           Defendant's motion to dismiss the FSI should be denied because  
3 (i) it was mooted by the grand jury's return of the SSI; and (ii) in  
4 any event, the motion is meritless.

5           The Ninth Circuit has repeatedly held that dismissal of an  
6 indictment is a "drastic" and "harsh" measure that must meet an  
7 "extremely high standard" and is therefore "disfavored." United  
8 States v. Black, 733 F.3d 294, 302 (9th Cir. 2013); United States v.  
9 Rogers, 751 F.2d 1074, 1076 (9th Cir. 1985); United States v. Owen,  
10 580 F.2d 365, 367 (9th Cir. 1978) (cleaned up). To warrant such  
11 dismissal, the alleged government misconduct must be "patently  
12 egregious," "flagrant," "grossly shocking," and/or "so outrageous as  
13 to violate the universal sense of justice." Black, 733 F.3d at 302;  
14 United States v. Landeros, 748 F. App'x 135 (9th Cir. 2019) (cleaned  
15 up). In seeking dismissal, a defendant must also show that the  
16 misconduct was prejudicial or otherwise "pollute[d]" the defendant's  
17 prosecution. Owen, 580 F.2d at 367. For the reasons set forth  
18 below, defendant's motion falls far short of establishing any grand  
19 jury misconduct, much less purported misconduct to justify the  
20 extreme remedy defendant seeks.

21        **1. The SSI Moots Defendant's Motion**

22           Here, defendant's sole claim is that the FSI should be dismissed  
23 because the government allegedly presented false testimony to the  
24 grand jury about defendant's violent lyrics. (Dkt. 139 at 7-9.) As  
25 described below, this claim is meritless. Nonetheless, the grand  
26 jury's return of the SSI --- which removed all references to  
27 defendant's lyrics --- moots defendant's claim for dismissal.

28           "A claim is moot when the issues presented are no longer live or

1 the parties lack a legally cognizable interest in the outcome.”  
2 United States v. Hulen, 879 F.3d 1015, 1018 (9th Cir. 2018) (cleaned  
3 up). Because the SSI removed the references to defendant’s lyrics,  
4 defendant’s motion to dismiss the FSI is no longer a live issue and  
5 should be denied. See, e.g., United States v. Herrera, No. CR 15-  
6 315-JGB, 2016 WL 11637163, at \*1 (C.D. Cal. Aug. 4, 2016) (denying as  
7 moot defendant’s motion to dismiss FSI for abuse of the grand jury  
8 process upon return of SSI); United States v. Tangen, No. 2:15-CR-  
9 0073-SMJ, 2016 WL 3676451, at \*1 (E.D. Wash. July 7, 2016) (denying as  
10 moot defendant’s motion to dismiss indictment for deficiencies  
11 upon return of SSI); United States v. Nez, No. CR-12-08109-PCT-GMS,  
12 2013 WL 2302036, at \*1 (D. Ariz. May 24, 2013) (similar); United  
13 States v. Baver, No. 2:21-CR-00520-JNP, 2023 WL 3022495, at \*1 (D.  
14 Utah Apr. 20, 2023) (similar).

15 Like the original indictment and the FSI, the SSI makes clear  
16 that the grand jury indicted defendant for his conduct, not for his  
17 status as a rapper or because of the violent lyrics at issue  
18 concerning “greenlighting” rivals. As with all prior iterations of  
19 the indictment, the SSI contains significant, material allegations  
20 that defendant directed his co-conspirators to travel across the  
21 country to stalk and kill one of his rivals. Specifically, it  
22 alleges that defendant led OTF, a group of individuals who engaged in  
23 violence at defendant’s direction. (SSI at Introductory Allegations  
24 ¶¶ 1-2.) After OTF member D.B. was murdered, defendant sought  
25 revenge. (Id. at ¶ 3.) He made clear to co-conspirators that he  
26 would pay a bounty for the killing of T.B., who was suspected to be  
27 involved in D.B.’s killing. (Id.) And when defendant and his  
28 co-conspirators learned that T.B. was in Los Angeles, defendant set

1 into motion his plan to execute T.B., including by causing and  
2 financing his co-defendants to travel to Los Angeles to track, stalk,  
3 and kill T.B --- including one co-conspirator who traveled with  
4 defendant on a private jet to the Los Angeles area. (*Id.* at ¶¶ 4-5;  
5 Count One ¶¶ B.1-3 and Overt Acts 1-4, 6.) These allegations make  
6 clear that defendant used his power, his wealth, and his control over  
7 OTF to exact deadly revenge on his rival. Accordingly, the grand  
8 jury's return of the SSI --- containing all of these material  
9 allegations and none of defendant's lyrics --- moots his motion to  
10 dismiss the FSI.

11                   **2. Defendant Fails to Show Any Misconduct or Prejudice**

12                  But even if the motion was not moot (it is), defendant's  
13 accusation of government misconduct and resulting prejudice is  
14 baseless. First, the FSI's allegation that defendant commercialized  
15 S.R.'s death was neither false nor reckless. Defendant has  
16 repeatedly used his pulpit to promote violence, publicly rapping  
17 about paying for murders, hunting opponents with machineguns, "bounty  
18 hunters" in Beverly Hills, and other lyrics that have a striking  
19 similarity to the modus operandi used to kill S.R.<sup>6</sup> Whether or not  
20 defendant's lyrics about "greenlighting" a rival were written before  
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22                  <sup>6</sup> For example, defendant was featured on another artist's song  
23 in which he raps, "I don't want no niggas who you catch, **I want the**  
24 **one I paid for ... Trollin' ass, we shot your homie.**" "Gucci Mane -  
25 Rumors feat. Lil Durk [Official Video]", available at  
<https://www.youtube.com/watch?v=QVn1DGgqBNo> (emphasis added); see  
also "Scoom his Ass (ft. Boonie Moe) (Official Video)", available at  
<https://www.youtube.com/watch?v=HXUDCW4wECY> ("Popping traffic, we in  
Cali', ride through Beverly Hills with choppers ... dying to see the  
oppas"; "Bounty hunter, he ready to crack that lil' bitch down to get  
her off"). Although "Scoom his Ass" does not appear to have been  
officially released by defendant, the lyrics are authentic as the  
government seized the audio file from a co-conspirator's cellular  
phone pursuant to a federal search warrant, which has been produced  
to the defense. See Bates Media 638.

1 or after S.R.'s death, the release of the song after the murder gave  
2 defendant's fans fodder to associate him with the murder --- a claim  
3 that defendant himself seemed to admit during an interview on a  
4 popular podcast.<sup>7</sup>

5 As to prejudice, defendant's claim that the "lyrics were one of  
6 only two pieces of evidence that the [First] Superseding Indictment  
7 cited against" him (Dkt. 139 at p. 10) completely disregards and  
8 belittles the grand jury's findings in all three indictments that  
9 defendant was the organizer and leader of this calculated murder  
10 plot. See Section III.1. The FSI's single reference to defendant's  
11 lyrics in an introductory allegation caused no prejudice considering:  
12 (i) the numerous, material allegations that defendant directed this  
13 revenge killing; and (ii) the grand jury's confirmation when it  
14 returned the SSI that defendant was charged for his murderous  
15 conduct, not his lyrics. The Court should deny the motion to  
16 dismiss.

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22       <sup>7</sup> In May 2023, defendant appeared on a well-known podcast where  
23 he tacitly admitted his involvement in the killing of S.R.  
24 Specifically, after being asked about his rivalry with T.B. and in  
25 response to the interviewer's question about whether defendant was  
"triggered by the 'slide for Von' comments" --- a reference to  
"sliding" or exacting revenge for OTF member D.B.'s death ---  
defendant coyly responded, "For some reason I just don't see them  
comments no more . . . for some odd reason . . . might be the water  
. . . we here though." See "LIL Durk Realest Interview Ever. Last  
Interview on Off The Record w/ Akademiks", DJ Akademiks, video clip  
available at <https://www.youtube.com/watch?v=b92PfcokiYI>, timestamp  
2:23:36 - 2:24:25 (video of podcast interview, which was originally  
posted on or about May 23, 2023, and available at  
<https://open.spotify.com/episode/1hCERNIXf49Jxz4yH6NuPy>).

1           **B. Defendant's Request for Grand Jury Transcripts is Also Moot**  
2           **and Meritless**

3           Grand jury secrecy exists for a reason. Indeed, the "proper  
4 functioning of our grand jury system depends" on it. United States  
5 v. Douglas Oil, 441 U.S. 211, 218-19 (1979). This is especially true  
6 in cases like this one where witnesses have been threatened, and  
7 protecting their safety is paramount. The charged conduct at  
8 issue --- defendant allegedly dispatching six hitmen to kill a rival  
9 located in another part of the country --- also showcases the  
10 palpable danger to witnesses and to those the co-conspirators  
11 perceive as impediments to their freedom. As the Supreme Court has  
12 repeatedly held, "if preindictment proceedings were made public, many  
13 prospective witnesses would be hesitant to come forward voluntarily,  
14 knowing that those against whom they testify would be aware of that  
15 testimony. Moreover, witnesses who appeared before the grand jury  
16 would be less likely to testify fully and frankly, as they would be  
17 open to retribution as well as to inducements." (Id. at 219; see  
18 also Costello v. United States, 350 U.S. 359, 363 (1956) (explaining  
19 the impact of granting requests to challenge evidence presented to a  
20 grand jury, noting the "resulting delay would be great" and "[t]he  
21 result of such a rule would be that before trial on the merits a  
22 defendant could always insist on a kind of preliminary trial to  
23 determine the competency and adequacy of the evidence before the  
24 grand jury.".)

25           Rule 6(e)(3) provides narrow exceptions to this bedrock rule of  
26 secrecy, permitting disclosure of grand jury matters only in limited  
27 circumstances. When a defendant requests disclosure of grand jury  
28 matters, the court may authorize disclosure upon a showing that "a

1 ground may exist to dismiss the indictment because of a matter that  
2 occurred before the grand jury." Fed. R. Crim. P. 6(e)(3)(E)(ii).  
3 Thus, defendant's right of access to grand jury materials turns on  
4 whether he meets the standard to dismiss an indictment based on  
5 conduct occurring before the grand jury. See United States v.  
6 Murray, 751 F.2d 1528, 1533-34 (9th Cir. 1985) (defendants did not  
7 show a particularized need for grand jury materials where "the  
8 claimed misconduct would not have compelled the dismissal of the  
9 first superseding indictment").

Moreover, the Supreme Court has "consistently construed [Rule 6(e)] to require a strong showing of particularized need for grand jury materials before any disclosure will be permitted." United States v. Sells Eng'g, Inc., 463 U.S. 418, 443 (1983). "The standards the district court should follow when lifting the secrecy of grand jury proceedings are (1) that the desired material will avoid a possible injustice, (2) that the need for disclosure is greater than the need for continued secrecy, and, (3) that only the relevant parts of the transcripts should be disclosed." United States v. Plummer, 941 F.2d 799, 806 (9th Cir. 1991).<sup>8</sup>

Defendant has not and cannot show particularized need for grand jury materials because the motion was mooted by the SSI and no "ground [] exist[s] to dismiss the indictment." See Rule

<sup>8</sup> Importantly, there is a presumption of regularity in grand jury proceedings. United States v. R. Enterprises, Inc., 498 U.S. 292, 300 (1991). Even in the context of an allegation of government misconduct, “[t]he presumption of regularity which attaches to Grand Jury proceedings still abides.” Hamling v. United States, 418 U.S. 87, 129 n.23 (1974); United States v. Buffington, 815 F.2d 1292, 1304 (9th Cir. 1987) (“an indictment regular on its face and returned by a legally constituted and unbiased grand jury is presumed to be valid; the party challenging this presumption faces a heavy burden”).

1 6(e) (3) (E) (ii); Section III.1. And even if the motion was not moot,  
2 defendant's claims "would not have compelled the dismissal" of the  
3 FSI, given the lack of misconduct and the absence of any prejudice.  
4 See Murray, 751 F.2d at 1534; Section III.2. Accordingly, defendant  
5 fails to meet his heavy burden to invade the grand jury's  
6 proceedings.

7 Finally, even if defendant could show a "particularized need"  
8 for grand jury materials (he has not), he fails to establish that any  
9 need outweighs "the need for continued secrecy," Plummer, 941 F.2d at  
10 806. Preserving the grand jury's secrecy and independence is  
11 paramount in this case. Defendant has already shown he is willing to  
12 use his power to continue pursuing violence, including allegedly  
13 offering a bounty to kill a family member of a witness. (See Dkt.  
14 105, Ex. 2 [Under Seal] at 18-19; see also Dkt. 105, Ex. 1 at 12  
15 (affidavit describing that defendant offered money to kill "those  
16 responsible for his brother's murder, and more specifically, offering  
17 to pay money for any Gangster Disciple that is killed".) And  
18 evidence collected has also shown that one of defendant's OTF members  
19 has already attempted to intimidate a witness. (See id. at 18-19.)  
20 Quite simply, the Supreme Court's warning that the release of grand  
21 jury materials may result in witness "retribution [and] inducements,"  
22 Douglas Oil, 441 U.S. 219, is near certain in a calculated murder  
23 case like this. The Court should accordingly deny defendant's  
24 request for grand jury transcripts.

25 **IV. CONCLUSION**

26 For the foregoing reasons, the government respectfully requests  
27 that this Court deny the motion to dismiss and defendant's request  
28 for the release of grand jury transcripts.